IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 408 (S/S) of 2006

Sunil Singh,
S/o Sri J.F. Singh,
At present working as Junior Clerk,
Adams Girls Inter College,
Almora. .....Petitioner

V e r s u s

1. State of Uttaranchal, through Secretary, Education, Uttaranchal Shashan, Dehradun.
2. Director, Vidyalaiya Siksha, Uttaranchal, Dehradun.
3. Joint Director, Education, Kumaon Mandal, Nainital.
4. District Education Officer, Almora.
5. Committee of Management, Adams Girls Inter College, Almora through its Manager,
6. Principal, Adams Girls Inter College, Almora.
7. Sri Rajeev Maissey, Inquiry Officer / Manager, Committee of Management, Ramsey Inter College, Almora.

.....Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri M.C. Kandpal, learned counsel for the petitioner, learned standing counsel for the respondents no. 1 to 4 and Sri Anil Kumar Joshi, learned counsel for respondent nos. 5 and 6. No one is present on behalf of respondent no. 7.

By means of this writ petition, the petitioner has prayed to issue a writ, order or direction in the nature of Certiorari to quash the suspension order dated 18.03.2006

passed by the Manager, Adams Girls Inter College, Almora and order dated 21.03.2006 passed by District Education Officer, Almora approving the suspension order.

Learned counsel for the petitioner has submitted that petitioner, who is clerk in Adams Girls Inter College, has been suspended by respondent no. 5 on the basis of malafide. In the suspension order number of allegations has been levelled against the petitioner including the allegation that the petitioner is not obeying the order passed the Principal and further petitioner has made irrelevant notes on the order, which was served among the employees. Certain allegations have been levelled against the petitioner in the suspension order, based on malafide.

In the suspension order it is mentioned that Sri Rajeev Massey. Manager of RamJey Inter College, Almora is appointed as Inquiry Officer.

Learned counsel for the petitioner has submitted that there is a court case between Rajeev Maissey and petitioner and respondents had deliberately appointed him as Inquiry Officer.

I found force in the submission of learned counsel for the petitioner on this point that person, against whom the petitioner is involved in a court case, cannot be appointed as Inquiry Officer because the said person would be biased and there is every possibility that inquiry may not be fair.

Learned counsel for the respondents has submitted that respondents are ready to change the Inquiry Officer.

Since the respondents are ready to change the Inquiry Officer and serious allegation of malafide is levelled against the Manager as well as Principal it is expected that respondent no. 5 i.e. Committee of Management may make a request to District Education Officer, Almora to appoint some officer subordinate to him as Inquiry Officer to make inquiry on the allegation made against the petitioner.

Inquiry Officer, so appointed, shall submit chargesheet within a period of fifteen days from today. Thereafter, fifteen days are granted to the petitioner to file his reply on the charges levelled against him and thereafter, the Inquiry Officer shall submit his report within a period of two weeks from the date of receipt of reply. At any rate the whole exercise shall be completed within a period of two months including the period of passing of final order from today. The District Education Officer, Almora may take action on the request made by Committee of Management for appointing of Inquiry Officer within period of one week from the date of production of certified copy of this order.

With this direction the writ petition is finally disposed of. No orders as to costs.

(M.M. Ghildiyal, J)

April 10, 2006
SKSharma